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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,097	05/08/2002	Fridolin Storchli	P/154-44	7516

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EXAMINER

BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/069,097

Applicant(s)

STORCHLI ET AL.

Examiner

Thomas J. Brahan

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3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-53 and 70 is/are pending in the application.
- 4a) Of the above claim(s) 40,41 and 70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-39 and 42-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claim 70 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Claims 40 and 41 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species. Election was made without traverse in the reply filed on July 30, 2004.
2. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
3. Claims 42-44 and 48-53, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The structures of the shelf like structure and the shelf serving apparatus of claims 42 and 48, and the stationary displacement means of claim 43, and how they are corralled with the moving cell structures are not understood,
4. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
5. Claims 42-45 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. In claim 42 the term "shelve like structure" renders the claim indefinite, as it is unclear what would or would not be considered as like a shelve.
 - b. In claim 43 the term "are foreseen" renders the claim indefinite, as failing to be a positive inclusion of the elements of the invention.
 - c. Claim 44 is not understood. How is applicant using the term "proceeds"?
 - d. In claims 45 and 46, line 1, what element is applicant referring to as "it"?
 - e. It is unclear as to whether claim 50 is reciting that the receiving places in the first apparatus move as a group independently from the receiving places in the second apparatus, or if they move independently from each other.
 - f. It is unclear as to how claim 51 further limits the claimed invention.
 - g. In claim 52, line 1, what element is applicant referring to as "it"?
6. Claims 44 and 45 are not understood sufficiently as to be further treated on their merits with rejections based upon prior art.

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7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 35-38, 46, and 47, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Liaw et al. Liaw et al shows a depot for an automatic storing system comprising at least one input station (see figure 2) and at least one delivery station (any location other location as no structure or function is specified for the delivery station), the input station has at least two cells (201, 202, and 203), each cell of which is used as a loading cell at one level and used as a transfer cell at other levels. The cells are positioned by being displaced vertically, as recited in claims 36-38.

9. Claims 35-39, 46, and 47, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Beutler. Beutler shows a depot for an automatic storing system comprising at least one input station (at 5) and at least one delivery station (any location other location as no structure or function is specified for the delivery station), the input station has at least two cells (6), each cell of which is used as a loading cell at one level and used as a transfer cell at other levels. The cells are positioned by being displaced vertically, as recited in claims 36-38 and by rotating, as recited in claim 39.

10. Claims 35-39, 42, 43, and 47, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Knakrick. Knakrick shows a depot for an automatic storing system comprising at least one input station (2) and at least one delivery station (any location other location as no structure or function is specified for the delivery station), the input station has at least two cells (7), each cell of which is used as a loading cell at one level and used as a transfer cell at other levels. The cells are positioned by being displaced vertically, as recited in claims 36-38 and by rotating, as recited in claim 39. The cells have a moveable shelf serving apparatus or stationary displacements means (moving transfer plates 13), as broadly recited in claims 42 and 43.

11. Claims 48-52, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Kasai et al. Kasai et al shows a number of arrangements as storage depots with Figure 15 having at least two shelf serving apparatuses (152 and 160) wherein said shelf serving apparatuses transfer at least one article (a pallet lid) between the shelf serving apparatuses. The first shelf serving apparatus (152) comprises more receiving places than the second shelf receiving apparatus (160) which has a single receiving place, as recited in claim 49. The receiving spaces of the first apparatus move vertically independently of the receiving places of the second apparatus, which is on manner of interpreting claim 50. See also figure 31 which has the receiving places moving vertically independently within a single shelf receiving apparatus, which is another manner of interpreting claim 50.

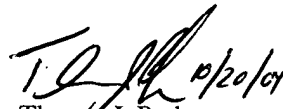
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12. Claims 48 and 51-53, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Wilson. Figure 12 of Wilson shows a parking garage with two shelf serving apparatuses (28) each with a stationary lifting means.

13. Applicant's remarks in the papers filed April 2, 2004 and July 30, 2004 have been fully considered, but are deemed moot in view of the above rejections. The amendments necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

14. An inquiry concerning this communication should be directed to Thomas J. Brahan at telephone number (703) 308-2568. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (703) 308-3248. The fax number for all patent applications is (703) 872-9306.


Thomas J. Brahan
Primary Examiner
Art Unit 3652